

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

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| UNITED STATES OF AMERICA | § | |
| | § | |
| vs. | § | 2:00CR25(7) |
| | § | |
| FRANK BLACK | § | |

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

On August 4, 2008, the court held a hearing on the government's petition (#206) to revoke supervised release. The government was represented by Assistant United States Attorney Mr. Allen Hurst. The defendant was represented by Mr. Ken Hawk.

Frank Black was sentenced on August 30, 2000, before the Honorable U.S. District Judge T. John Ward of the Eastern District of Texas – Marshall Division, after pleading guilty to the offense of Conspiracy to Manufacture Methamphetamine, a Class B felony. This offense carried a statutory maximum imprisonment term of 40 years. The guideline imprisonment range, based on a total offense level of 25 and a criminal history category of V, was 100 to 125 months. Frank Black was subsequently sentenced to 100 months imprisonment followed by four (4) years of supervised release subject to the standard conditions of release, plus special conditions to include participation in a program of testing and treatment for drug abuse as directed by the probation officer. On July 6, 2007, Frank Black completed his period of imprisonment and began service of the supervision term.

On July 3, 2008, the instant petition to revoke was filed. In its petition, the government alleges the defendant violated the following conditions:

1) The defendant shall not commit another federal, state or local crime. Specifically, the government alleges as follows: The defendant was arrested on August 19, 2007, in Hopkins County, Texas, and charged with driving while intoxicated.

2) The defendant shall report to the probation officer as directed by the Court or probation officer, and shall submit a truthful and complete written report within the first five days of each month. Specifically, the government alleges as follows: The defendant failed to submit a truthful and complete written report within the first five days of August, September, October, November and December of 2007, and January, February, March, April, May and June of 2008.

The court scheduled a final revocation hearing for August 4, 2008. At the hearing on the government's petition, and after consenting to the undersigned's taking the plea, the defendant pled true to the second allegation as set forth above and the government withdrew the first allegation. Based on the defendant's plea of true to the second allegation, and with no objection by the defendant or the government, the court found that the defendant did violate his conditions of supervised release as alleged in the U.S. Probation Office's petition.

The court thereafter recommended that the defendant be committed to the custody of the Bureau of Prisons to be imprisoned for seven (7) months, with no term of supervised release to follow such term of imprisonment. Based on the foregoing, it is

RECOMMENDED that the defendant's plea of true to the second allegation as set forth in the government's petition be **ACCEPTED**. Based upon the defendant's plea of true to the allegation, it is further recommended that the court find that the defendant violated the conditions of his supervised release. It is further

RECOMMENDED that the defendant's supervised release be **REVOKED**. It is further

RECOMMENDED that the defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of seven (7) months, with no term of supervised release to follow such term of imprisonment. It is further

RECOMMENDED that the court request that the Bureau of Prisons place the defendant in its Seagoville, Texas, facility during the period of his confinement.

During the August 4, 2008, revocation hearing, both parties waived their right to object to this report and recommendation.

SIGNED this 12th day of August, 2008.


CHARLES EVERINGHAM IV
UNITED STATES MAGISTRATE JUDGE